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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200225-0064]

RIN 0648-BJ16

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 21 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve and implement measures included in Amendment 21 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan, as submitted by the Mid-Atlantic Fishery Management Council. This action would integrate Atlantic chub mackerel as a stock in the fishery under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. This amendment would identify goals and objectives for managing Atlantic chub mackerel; specify status determination criteria; designate essential fish habitat; establish a specifications process; set annual catch limits for 2020-2022; and implement accountability measures, possession limits, permitting and reporting requirements, and other administrative measures for Atlantic chub mackerel caught from Maine through North Carolina.

DATES: Public comments must be received by [*insert date 30 days after date of publication in the **FEDERAL REGISTER***].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2019-0109, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0109, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on Chub Mackerel Proposed Rule.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF formats only.

The Mid-Atlantic Council prepared an environmental assessment (EA) for Amendment 21 that describes the proposed action and provides a thorough analysis of the

impacts of the proposed measures and other alternatives considered. Copies of Amendment 21, including the EA, the Regulatory Impact Review, and the Regulatory Flexibility Act analysis, are available from: Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 State Street, Dover, DE 19901. The EA and associated analysis is accessible via the Internet <http://www.mafmc.org/supporting-documents>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Greater Atlantic Regional Fisheries Office and by e-mail to OIRA_Submission@omb.eop.gov or fax to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Douglas Christel, Fishery Policy Analyst, (978) 281-9141.

SUPPLEMENTARY INFORMATION:

Background

In August 2016, the Mid-Atlantic Fishery Management Council adopted final measures to protect previously unmanaged forage species as part of Amendment 18 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan (FMP). During the development of that action, the Council initially considered Atlantic chub mackerel as an ecosystem component forage species due to their schooling behavior, relatively small size, and role as prey for a variety of predators. However, because a directed commercial fishery for Atlantic chub mackerel recently developed in Federal waters and other considerations, the Council concluded that this species is in need of specific conservation and management measures of its own. The Council developed temporary measures to

regulate Atlantic chub mackerel catch as part of Amendment 18 (August 28, 2017; 82 FR 40721) until the Council could formally integrate this species as a stock in the Atlantic Mackerel, Squid, and Butterfish FMP. These temporary measures, including a 1,297-mt annual landing limit, a 40,000-lb (18-mt) possession limit once the annual landing limit is reached, and permitting and reporting requirements, became effective on September 27, 2017, and expire on December 31, 2020.

On December 15, 2016, the Council initiated an action to develop measures required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to formally manage Atlantic chub mackerel as a stock in the fishery under the Atlantic Mackerel, Squid, and Butterfish FMP. The Council held scoping meetings from Rhode Island through Virginia in May 2017. These meetings sought public input on the most appropriate measures to manage the Atlantic chub mackerel fishery, including both required and discretionary measures outlined in the Magnuson-Stevens Act. After further developing proposed measures, the Council conducted public hearings in December 2018 and January 2019 to solicit additional input on the range of alternatives under consideration by the Council, with public comments accepted through January 18, 2019. At its March 2019 meeting, the Council adopted final measures under Amendment 21 to the Atlantic Mackerel, Squid, and Butterfish FMP. The Council submitted the final Amendment 21 document on October 8, 2019. The Council reviewed the proposed regulations to implement these measures, as drafted by NMFS, and deemed them to be necessary and appropriate, as specified in section 303(c) of the Magnuson-Stevens Act on December 20, 2019.

Proposed Measures

Under the Magnuson-Stevens Act, we are required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. The Magnuson-Stevens Act allows us to approve, partially approve, or disapprove measures that the Council proposes based only on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. Otherwise, we must defer to the Council's policy choices. We are seeking comments on the Council's proposed measures in Amendment 21 described below and whether they are consistent with the Atlantic Mackerel, Squid, and Butterfish FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law.

This proposed rule includes changes to existing FMP measures adopted by the Council under Amendment 21, but also several revisions to regulations that are not specifically identified in Amendment 21. These revisions are necessary to effectively implement the provisions in Amendment 21, or to correct errors in, or clarify, existing provisions. NMFS is proposing these latter changes under the authority of section 305(d) of the Magnuson-Stevens Act.

1. Goals and Objectives

The FMP's current goals and objectives have been in place since 1981 and apply to all species managed by the FMP (Atlantic mackerel, *Illex* squid, longfin squid, and butterfish). During the development of this action, the Council identified additional goals and objectives that are specific to managing Atlantic chub mackerel. If approved, we would use the following goals and objectives to evaluate if changes to Atlantic chub

mackerel management measures are consistent with the FMP when deciding whether to approve a future management action.

- *Goal 1: Maintain a sustainable Atlantic chub mackerel stock.*
 - *Objective 1.1: Prevent overfishing and achieve and maintain sustainable biomass levels that achieve optimum yield in the fisheries and meet the needs of Atlantic chub mackerel predators.*
 - *Objective 1.2: Consider and account for, to the extent practicable, the role of Atlantic chub mackerel in the ecosystem, including its role as prey, as a predator, and as food for humans.*
- *Goal 2: Optimize economic and social benefits from utilization of chub mackerel, balancing the needs and priorities of different user groups.*
 - *Objective 2.1: Allow opportunities for commercial and recreational Atlantic chub mackerel fishing, considering the opportunistic nature of the fisheries, changes in availability that may result from changes in climate and other factors, and the need for operational flexibility.*
 - *Objective 2.2: To the extent practicable, minimize additional limiting restrictions on the *Illex* squid fishery.*
 - *Objective. 2.3: Balance social and economic needs of various sectors of the Atlantic chub mackerel fisheries (e.g., commercial, recreational, regional) and other fisheries, including recreational fisheries for highly migratory species.*
- *Goal 3: Support science, monitoring, and data collection to enhance effective management of Atlantic chub mackerel fisheries.*

- *Objective 3.1:* Improve data collection to better understand the status of the Atlantic chub mackerel stock, the role of Atlantic chub mackerel in the ecosystem, and the biological, ecological, and socioeconomic impacts of management measures, including impacts to other fisheries.
- *Objective 3.2:* Promote opportunities for industry collaboration on research.

2. *Designation of Essential Fish Habitat (EFH)*

The Magnuson-Stevens Act requires the designation of EFH for all managed stocks. Based on a combination of fishery and survey data, literature sources, and expert judgment, Amendment 21 would designate Atlantic chub mackerel EFH as follows:

- *Eggs:* Pelagic waters throughout the exclusive economic zone (EEZ) from North Carolina to Texas, including intertidal and subtidal areas, at temperatures of 15 - 25° C;
- *Larvae:* Pelagic waters throughout the EEZ from North Carolina to Texas, including intertidal and subtidal areas, at temperatures of 15 - 30 °C; and
- *Juveniles and adults:* Pelagic waters throughout the EEZ from Maine to Texas, including intertidal and subtidal areas, at temperatures of 15 - 30 °C.

3. *Management Unit*

National Standard 3 of the Magnuson-Stevens Act requires an individual stock of fish be managed as a unit throughout its range, while National Standard 3 Guidelines at 50 CFR 600.320 indicate that a FMP should implement conservation and management measures for the part of the management unit that lies within U.S. waters. In practice, the

management unit defines the geographic area over which the management measures in an FMP apply.

Atlantic chub mackerel are found throughout the Atlantic coast from Maine through Florida, and in both the Gulf of Mexico and the Caribbean Sea. This species is caught infrequently and in low numbers in fishery independent surveys, and both commercial and recreational catch varies substantially on an annual basis. While there has been some commercial and recreational catch in the Gulf of Mexico and Florida, most Atlantic chub mackerel landings come from waters managed by the Mid-Atlantic Council from New York through North Carolina. From 1998-2018, no Atlantic chub mackerel landings were reported in South Carolina and Georgia, and landings in Florida do not come from a directed fishery and represent a very small portion of total coastwide landings.

This action would designate Federal waters from Maine to North Carolina as the Atlantic Chub Mackerel Management Unit. Management measures, including the proposed permitting and reporting requirements, possession limits, annual catch limit (ACL), and accountability measures (AMs) discussed further below would only apply to vessels operating within the Atlantic Chub Mackerel Management Unit. Atlantic chub mackerel catch from South Carolina through the east coast of Florida would not be directly managed, but annual estimates of expected catch from this area would be deducted from the overall Atlantic chub mackerel acceptable biological catch (ABC), as discussed further below under Item 6 of this preamble (the specifications process).

4. Status Determination Criteria

The Magnuson-Stevens Act requires FMPs to specify objective and measurable criteria for identifying when a stock is overfished or experiencing overfishing. In 2018, the Council adopted an omnibus action that automatically updates status determination criteria for each managed species based on the latest reviewed and accepted stock assessment (April 11, 2018; 83 FR 1551). Due to the limited fishery dependent and independent data available for Atlantic chub mackerel, a stock assessment could not be conducted for this species and used to specify status determination criteria. At its July 2018 meeting, the SSC could not identify an overfishing limit (OFL) or determine stock size and productivity based on available information. The SSC concluded that there is no information to determine reference points for biomass levels, and little information exists to determine reference points for fishing mortality rates. Despite these limitations, the SSC recommended a 2,300-mt (5.07-million lb) ABC based on historic commercial and recreational catch, productivity of species with similar life history, and expert judgement. The Council's Fishery Management Action Team (FMAT) used this ABC, in conjunction with the Council's ABC control rule, to calculate an OFL to inform proxy status determination criteria.

To calculate an OFL using existing ABC control rules, the Council's FMAT had to make two key assumptions about the implied status of the stock and level of precision in estimating stock status. In recommending a 2,300-mt (5.07 million-lb) ABC, the SSC indicated that similar catch levels in recent years are unlikely to result in overfishing based on the productivity of this species in other parts of the world and the low fishing capacity of the domestic fishery. However, the SSC suggested that it had some reservations due to the uncertainty with available data. Consistent with SSC deliberations, the FMAT

assumed that Atlantic chub mackerel biomass is at or above maximum sustainable yield, but that assumption is subject to a high degree of uncertainty. Under the Council's ABC control rule, the ABC for a stock with a typical life history, biomass at or above maximum sustainable yield, and a 150-percent coefficient of variation (level of confidence in the OFL estimate) should be equal to 76 percent of the OFL. Therefore, dividing the SSC's recommended 2,300-mt (5.07 million-lb) ABC by 0.76 results in a proxy OFL of 3,026 mt (6,671,188 lb). This estimate would be used as a proxy Atlantic chub mackerel status determination criteria for both overfishing and overfished status.

Under this action, if more than 3,026 mt (6,671,188 lb) of Atlantic chub mackerel are caught from Maine through the east coast of Florida in a given year, overfishing is assumed to have occurred. If catch exceeds that amount in three consecutive years, then the stock would be presumed to be overfished and the Council would need to develop a rebuilding plan. These status determination criteria would remain in effect until updated criteria based on an accepted stock assessment are available.

5. Optimum Yield and Maximum Sustainable Yield

National Standard 1 requires conservation and management measures to prevent overfishing while achieving optimum yield (OY) on a continuing basis. OY is the amount of fish that will provide the greatest overall benefit to the Nation and is based on maximum sustainable yield (MSY) that has been reduced by any relevant economic, social, or ecological factors. In determining OY, the Council considered a literature review related to the role of Atlantic chub mackerel in the diets of predators to evaluate its importance as forage and on ecosystem functions. The Council also considered if reducing OY would help address localized depletion concerns identified during scoping.

Ultimately, the Council determined there is no quantitative basis for setting OY less than ABC to account for ecosystem concerns, and that OY is not the most appropriate mechanism to address localized depletion concerns. Therefore, the proposed regulations would allow OY to be set equal to or less than the ABC, but this action would set Atlantic chub mackerel OY and MSY equal to the ABC (2,300 mt, or 5.07 million lb) until otherwise revised by the Council. The Council is sponsoring research into the role of Atlantic chub mackerel as a prey species, which is expected to be presented to the Council in 2020 and could inform future revisions to the OY or MSY proposed in this action.

6. Specifications Process

Under this action, the annual specifications process used for other species managed under the FMP, as described at § 648.22, would also apply to Atlantic chub mackerel. Specifications could be set for up to 3 years at a time, subject to annual review. As part of this process, the Council's SSC would recommend a stock-wide ABC that must be equal to or less than the OFL after consideration of scientific uncertainty. Each year, the Monitoring Committee would review fishery catch, survey data, and other available information to provide the Council with the following recommendations:

- An ACL that is calculated by deducting an estimate of expected catch from South Carolina through the east coast of Florida from the ABC;
- An annual catch target (ACT) that is equal to or less than the ACL to account for management uncertainty related to the ability of management measures to constrain catch and prevent the ACL from being exceeded; and
- A total allowable landing (TAL) limit derived by subtracting an estimate of expected dead discards from the ACT.

Under this action, there would be no separation of catch limits into commercial and recreational components; all catch would count towards one ACL and ACT.

Historically, recreational Atlantic chub mackerel landings have represented less than 1 percent of total landings over the past 5, 10, and 15 years. An allocation of catch to the recreational fishery would be very small, based on uncertain data, and difficult to monitor, particularly since discards are not well documented and species identification has been a concern raised during the development of this action.

The current regulations outline which measures could be revised through annual specifications. These same provisions would apply for Atlantic chub mackerel. As proposed, the ABC, management uncertainty, discard estimate, and expected Atlantic chub mackerel catch from South Carolina through Florida could be adjusted through the specifications process.

7. Proposed 2020 and Projected 2021-2022 Specifications

Table 1 summarizes the Atlantic chub mackerel specifications proposed for 2020 and projected for 2021 and 2022 based on a fishing year that runs from January 1 through December 31 of each year. The proposed 2,261.7-mt (4,986,132-lb) ACL results from deducting an estimate of South Carolina – Florida catch (38.3 mt or 84,500 lb) from the ABC. This catch estimate is based on the highest annual commercial landings and recreational catch data from the area over the past 20 years (1999-2018) plus an additional 10 percent to account for recreational discards. Deducting a 4-percent management uncertainty buffer from the ACL results in a 2,171.2-mt (4,786,687-lb) ACT for catch from Maine through North Carolina. Deducting a 6-percent discard estimate from the ACT results in a 2,040.9-mt (4,499,486-lb) TAL, which is 57 percent higher than the

current temporary 1,297-mt annual landings limit. The proposed 4-percent management uncertainty buffer accounts for the potential that Atlantic chub mackerel may be mis-identified or mis-reported and uncertainty in how the historically pulse fishery may respond to these new measures, including the AMs discussed in the next section. The 6-percent discard estimate represents the highest estimate of Atlantic chub mackerel discarded based on observed commercial trips from 2003-2017 (15 years). Although this discard rate was based on commercial trips, recreational discards were generally low compared to commercial discards. As noted above, these specifications would be evaluated annually, and the Monitoring Committee could recommend adjustments to South Atlantic catch, management uncertainty, and discard rates based on updated data.

Table 1--Proposed 2020 and Projected 2021-2022 Atlantic Chub Mackerel Specifications

Specification	mt	lb
ABC	2,300	5,070,632
ACL	2,261.7	4,986,132
ACT	2,171.2	4,786,687
TAL	2,040.9	4,499,486

8. Possession Limits

Initially, all commercial vessels and recreational anglers would not be subject to a possession limit for Atlantic chub mackerel. As Atlantic chub mackerel landings approach the TAL, NMFS would implement more restrictive commercial vessel possession limits through the AMs detailed in the next section of this preamble.

9. Accountability Measures (AMs)

The Magnuson-Stevens Act requires AMs to prevent the ACL from being exceeded and to mitigate an overage if the ACL is exceeded. This action proposes in-season AMs to prevent the ACT from being exceeded, including an 18.1-mt (40,000-lb)

commercial vessel possession limit once 90 percent of the TAL is landed and a 4.5-mt (10,000-lb) possession limit once 100 percent of the TAL is landed. These measures would slow fishery catch to incidental levels as landings approach the TAL. The proposed AM triggers are similar to those used as AMs in the Atlantic mackerel fishery. The proposed 18.1-mt (40,000-lb) possession limit is consistent with the current possession limit for Atlantic chub mackerel once the TAL is caught to deter further targeting of the species, while the 4.5-mt (10,000-lb) possession limit represents historic incidental catch of this species and is consistent with the incidental possession limit in the *Illex* squid fishery. These AMs would likely prevent the proposed ACL from being exceeded based on an analysis of historic fishery operations. If the ACL is exceeded based on total catch by both the commercial and recreational fisheries within the Management Unit, the ACT would be reduced by the amount of the overage as soon as possible in a subsequent fishing year. Because recreational catch data and a full accounting of total fishery catch are not available until well into the next fishing year, it is not possible to effectively reduce the ACT in the year immediately following an overage of the ACL.

10. Permit and Reporting Requirements

Permit and reporting requirements are discretionary measures under the Magnuson-Stevens Act, but provide valuable information to assess and manage fisheries. Under the current regulations, to fish for, possess, land, or sell Atlantic chub mackerel from the EEZ between New York and North Carolina, a vessel must be issued a commercial vessel permit by the Greater Atlantic Regional Fisheries Office (GARFO) for any managed species. This action would require vessels fishing for, possessing, landing, or selling Atlantic chub mackerel from the Atlantic Chub Mackerel Management Unit

described in Item 3 of the preamble to be issued either a valid Federal commercial or party/charter permit for any species managed by the FMP (Atlantic mackerel, *Illex* squid, longfin squid, or butterfish). Similarly, a dealer purchasing and selling Atlantic chub mackerel would be required to obtain a valid seafood dealer permit issued by GARFO for these same species. Any commercial vessel operator fishing for or possessing Atlantic chub mackerel in or from the Management Unit would be required to obtain and retain on board a valid operator permit issued by GARFO. Finally, vessel operators would also be required to report the catch of Atlantic chub mackerel on vessel trip reports (VTR, or logbooks) and comply with any applicable vessel monitoring system (VMS) declaration and reporting requirements for commercial vessels issued a permit under the FMP. Dealers purchasing Atlantic chub mackerel would be required to report such purchases via existing weekly dealer reports.

11. Transit Provision

A vessel issued a Federal commercial fishing permit from GARFO that possesses Atlantic chub mackerel in excess of the proposed possession limits would be allowed to transit the Management Unit in certain circumstances. Transit through the Management Unit would be allowed provided Atlantic chub mackerel was harvested outside of the Atlantic Chub Mackerel Management Unit and all gear is stowed and not available for immediate use. Some Atlantic chub mackerel are caught outside of mid-Atlantic Federal waters, including those areas under the jurisdiction of other Councils. This provision would allow vessels that catch Atlantic chub mackerel outside of the Management Unit to land this species in mid-Atlantic or New England ports.

This transiting provision was originally adopted by the Council as part of the Amendment 18 and would be continued through this action. Although the Council did not specifically adopt this measure as part of Amendment 21, because the reasons for adopting this provision still exist, we retained it in the draft proposed regulations sent to the Council for review, as required by section 303(c) of the Magnuson-Stevens Act. In deeming the proposed regulations consistent with Amendment 21, the Council Executive Director deemed the transiting provision to be consistent with this action as well. Therefore, we propose to implement this measure through this action, but specifically seek public comment whether it should be included in this action.

12. Administrative Measures

Certain administrative measures are necessary to effectively manage the Atlantic chub mackerel fishery. The Council's current ABC control rule and risk policy are documented in the regulations at §§ 648.20 and 21, respectively, and would both apply to Atlantic chub mackerel under this action. These measures help the Council set the ABC. The Magnuson-Stevens Act also requires FMPs to establish a standardized bycatch reporting methodology (SBRM). In 2015, the Council developed a SBRM applicable to all its FMPs (June 30, 2015; 80 FR 37182). This action would clarify that the SBRM regulations specified at § 648.18 also apply to Atlantic chub mackerel. Finally, this action would clarify that any changes to Atlantic chub mackerel measures must be made through an FMP amendment and cannot be made through the framework adjustment process outlined in § 648.25.

13. Exemption from Northeast Multispecies Mesh Requirements

The Northeast Multispecies FMP regulations at § 648.80 dictate the minimum mesh size and gear requirements that can be used in Federal waters of the Northeastern United States. Unless otherwise exempted, bottom trawl vessels fishing for any species outside of the Mid-Atlantic Regulated Mesh Area must use 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh in the body and extension of the net and a 6.5-inch (16.5-cm) diamond mesh or square mesh codend. Over time, vessels fishing for certain species or in certain fisheries operating at specific times, in specific areas, or with specific gear were granted exemptions from such mesh/gear requirements because such operations had a minimal bycatch of regulated groundfish species. The regulations at § 648.80(a)(8) allow the Regional Administrator, after consulting with the New England Fishery Management Council, to add an exemption to these gear requirements for an existing fishery if the bycatch of regulated species is less than five percent of the total catch by weight, and that the exemption does not jeopardize fishing mortality objectives of the Northeast Multispecies FMP.

In recent years, over 90 percent of Atlantic chub mackerel landings were caught in Federal waters between New York and North Carolina, nearly all of which was caught using small-mesh bottom trawl gear. From 1998-2018, observers did not record any bycatch of regulated groundfish species (e.g., cod, haddock, pollock, yellowtail flounder, etc., as defined at § 648.2) on 19 observed trips that landed Atlantic chub mackerel. Bycatch of small-mesh multispecies (silver hake, red hake, and offshore hake) was less than one percent of total catch per trip. Therefore, available data indicate that bycatch of regulated groundfish species is less than five percent of total catch for trips landing Atlantic chub mackerel. Further, the absence of regulated species bycatch suggests that

the Atlantic chub mackerel fishery would not jeopardize the fishing mortality objectives of any groundfish stock.

Concurrent with a consultation with the New England Council, this action proposes to add Atlantic chub mackerel to the species exemption specified at § 648.80(b)(3)(i) and create a new Atlantic chub mackerel fishery exemption at § 648.80(c)(5)(iii). The revision to the species exemption would exempt vessels from the Georges Bank and Southern New England (SNE) Regulated Mesh Area gear restrictions and allow vessels to fish for, harvest, possess, and land Atlantic chub mackerel when using small-mesh gear within both the SNE and Mid-Atlantic Exemption Areas defined at §§ 648.80(b)(10) and 648.80(c)(5)(i), respectively. Both measures would require vessels to comply with the Mackerel, Squid, and Butterfish FMP gear restrictions and possession limits specified at §§ 648.23 and 26, respectively, along with the possession restrictions for other species outlined in § 648.80(b)(3)(ii). Without these exemptions, vessels would not be allowed to retain Atlantic chub mackerel in areas in which they have been historically harvested using small-mesh bottom trawl gear. Therefore, these exemptions are necessary to allow the fishery to operate consistent with Mid-Atlantic Council intent as part of integrating this species into the Mackerel, Squid, and Butterfish FMP through this action.

14. Corrections

Corrections to existing regulations are necessary to differentiate between species managed by the FMP and ensure consistency with Council intent for previous actions. To differentiate between Atlantic mackerel and Atlantic chub mackerel, references to “mackerel” would be revised to reference Atlantic mackerel throughout part 648 when

appropriate; references to “squid” would be revised to “*Illex* squid” and “longfin squid” when appropriate; and references to the “Atlantic Mackerel, Squid, and Butterfish” FMP or associated entities such as the Monitoring Committee would be revised to the more general “Mackerel, Squid, and Butterfish” reference that is inclusive of both Atlantic mackerel and Atlantic chub mackerel.

Existing regulations at §§ 648.4(a)(5)(v) and 648.14(g)(4) would be revised to make such text consistent with similar text for other fisheries and to incorporate Atlantic chub mackerel.

In § 648.4(a)(15), revisions to existing text would ensure that a commercial fishing vessel must be issued a Federal permit for any commercial fishery of the Northeastern United States under part 648 instead of a specific forage species permit under § 648.4(a)(15), which does not actually exist. This change more effectively reflects Council intent under Amendment 18.

In §§ 648.5 and 6, revisions to existing text would ensure that the vessel operator and dealer permit requirements adopted by the Council under Amendment 18 are reflected in these sections. While we included these changes in the final rule to implement that action (August 28, 2017; 82 FR 40721), the **Federal Register** text was not updated accordingly.

In § 648.22, paragraph (a)(2) would be revised to spell out the first use of the term “annual catch limit” and “annual catch target.”

In §§ 648.22(a)(2), 648.22(b)(3)(v), 648.23(a)(2)(ii), and 648.24(c)(3), references to the butterfish “mortality” cap would be revised to the butterfish “discard” cap upon the request of Council staff to more accurately reflect how such measures are implemented.

Similarly, references to the Atlantic mackerel Tier 3 “allocation” in §§ 648.22(a)(3), 648.22(b)(2)(iv)(A), 648.22(c)(6), 648.24(b)(1)(i)(B), and §§ 648.26(a)(1)(iii) and (a)(2)(i)(B) would be revised to reference “catch cap” instead.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 21 to the Atlantic Mackerel, Squid, and Butterfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In making a final determination, NMFS will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

This proposed rule does not contain policies with Federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

The Council prepared a draft EA for this action that analyzes the impact of measures contained in this proposed rule. The EA includes an initial Regulatory Flexibility Act analysis (IRFA), as required by section 603 of the RFA, which is supplemented by information contained in the preamble of this proposed rule. The IRFA, as summarized below, describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of the RFA analysis is available from the Mid-Atlantic Council (see **ADDRESSES**).

Description of the Reasons Why Action by the Agency Is Being Considered

The purpose of this action is to implement both required and discretionary measures necessary to integrate Atlantic chub mackerel as a stock under the Atlantic Mackerel, Squid, and Butterfish FMP. A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule. Section 4.0 of the EA prepared for this action (see **ADDRESSES**) contains a more thorough description of the purpose and need for this action.

Statement of the Objectives of, and Legal Basis for, This Proposed Rule

The legal basis and objectives for this action are contained in the preamble to this proposed rule, and are not repeated here. Sections 4.0 and 5.0 of the EA prepared for this action (see **ADDRESSES**) contains a more thorough description of the purpose and need for this action and the rational for each measure considered.

Description and Estimate of the Number of Small Entities to Which This Proposed Rule Would Apply

For the purposes of the RFA analysis, the ownership entities (or firms), not the individual vessels, are considered to be the regulated entities. Ownership entities are defined as those entities or firms with common ownership personnel as listed on the permit application. Because of this, some vessels with Federal Atlantic mackerel, longfin squid, *Illex* squid, or butterfish permits may be considered to be part of the same firm because they may have the same owners. The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. For purposes of the RFA, a business primarily

engaged in commercial fishing activity is classified as a small business if it has combined annual gross receipts not in excess of \$11 million (NAICS 11411) for all its affiliated operations worldwide. A business primarily engaged in for-hire (charter/party) operations is characterized as annual gross receipts not in excess of \$7.5 million. To identify these small and large firms, vessel ownership data from the permit database were grouped according to common owners and sorted by size. The current ownership data set used to determine the size of the business entity in this analysis is based on calendar years 2015-2017 (the most recent complete data available).

The proposed action would affect any commercial or party/charter vessel that catches Atlantic chub mackerel from Maine through North Carolina. Although there is the possibility that a vessel historically caught Atlantic chub mackerel without being issued a Federal permit, the number of such vessels is likely less than 10 based on dealer data. Therefore, for the purposes of this analysis, any vessel that reported any amount of Atlantic chub mackerel landings on VTRs submitted to GARFO during 2008-2017 would be potentially affected by this action. Based on this approach, 86 commercial fishing entities would be affected by this action, 85 of which (99 percent) were categorized as small business entities using the definition specified above. From 2015-2017, these entities averaged \$1,343,855 in annual revenue from commercial fishing. Fewer than three entities depended upon Atlantic chub mackerel from more than one percent of total fishing revenues during 2015-2017. Seventy-seven party/charter entities would be affected by this action, all of which were classified as small businesses. These entities averaged \$316,860 in annual fishing revenues during 2015-2017, with dependence on Atlantic chub mackerel assumed to be low based on available information and public

input. Therefore, due to potential overlap between vessels conducting both party/charter and commercial operations, a maximum of 163 entities would be affected by this action, nearly all of which are small entities.

Description of the Projected Reporting, Recordkeeping, and Other Compliance

Requirements of this Proposed Rule

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for these collections of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, are estimated to average, as follows:

1. Initial Federal vessel permit application, OMB# 0648-0202, (45 minutes/response);
2. Initial Federal dealer permit application, OMB# 0648-0202, (15 minutes/response);
3. Initial Federal operator permit application, OMB# 0648-0202, (60 minutes/response).
4. Vessel logbook report of catch by species, OMB# 0648-0212, (5 minutes/response);

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden

estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Greater Atlantic Regional Fisheries Office at the ADDRESSES above, and e-mail to OIRA_Submission@omb.eop.gov, or fax to (202) 395-5806.

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

This proposed rule does not duplicate, overlap, or conflict with any other Federal rule.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

Section 7.2 of the EA estimates the number of vessel permits that would qualify under each alternative and the associated economic impacts to affected entities based on recent landings, with additional analysis provided in Section 8.10 of the EA. The text below summarizes the economic impacts for significant non-selected alternatives.

Although the no-action alternative (i.e., not managing Atlantic chub mackerel under the FMP) would minimize adverse economic impact, it is not a significant alternative because it does not meet the objectives for this action and would not be consistent with the Magnuson-Stevens Act. Similarly, the no-action alternative for other measures, including expected catch from South Carolina through Florida, discards, and management uncertainty, would result in a higher TAL and, therefore, potential fishery revenues. However, it is unrealistic and contrary to existing data to suggest that there is no catch

from South Carolina through Florida or discards. Also, due to difficulties with species identification and precisely monitoring new high-volume fisheries, it is unrealistic to suggest that proposed measures would perfectly control catch. Therefore, these alternatives are not significant non-selected alternatives for the purpose of the IRFA.

1. Expected Catch from South Carolina through Florida

Under this action, the Council considered three alternatives related to expected Atlantic chub mackerel catch from South Carolina through Florida. The only significant alternative would deduct an estimated catch of 12,600 lb (5.72 mt) from the ABC. Under that non-preferred alternative, the ACL would be 71,900 lb (32.61 mt) higher than the preferred alternative. Using the average price paid during 2009-2018 and assuming the full ACL would be landed (i.e., no discards occur and management uncertainty is not deducted to derive a TAL), that alternative could result in maximum of \$32,355 in potential additional fishing revenue. The Council did not select that alternative because available data indicates that Atlantic chub mackerel catch does occur from South Carolina through Florida, with landings reaching nearly 77,000 lb (34.93 mt) in the past. Further, discards in any fishery are to be expected, and an estimate of discards from this area should also be considered. Therefore, the Council adopted the preferred alternative to fully account for catch from these states and the uncertainty and variability in catch data to reduce the potential for overfishing this stock.

2. Expected Discards

The Council considered four alternative estimates of expected discards, including no action (no discards), 3 percent, 6 percent (preferred), and 10 percent. Only the 3-percent discard alternative is significant because it would result in a higher TAL than the

proposed action. This discard estimate represents observed discard rate during 2013 when landings were the highest recorded. A 3-percent discard rate could result in an TAL that is 143,601 lb (65 mt) higher than the proposed TAL. Using the average price paid during 2009-2018, this could amount to an additional \$64,620 in potential fishing revenue compared to the preferred alternative. The Council adopted the more conservative estimate of discards (six percent) based on a longer time series of observer data (15 years) instead of just one year with the highest landings. In conjunction with the proposed management uncertainty buffer (four percent), this would provide additional assurance that the ACL would not be exceeded and overfishing would not occur.

3. Accountability Measures

The Council considered several alternative AMs, including triggers for in-season closures of the commercial fishery and ACL overage paybacks. For in-season closure triggers, the Council considered no action (no in-season closure) and a closure when 90 percent, 95 percent, and 100 percent of the TAL is landed. Only the no action alternative for both in-season closures and ACL overage payback are significant alternatives because the 95 percent closure trigger would not be substantively different from the two other preferred alternatives combined.

The no action alternatives could result in higher short-term economic benefits compared to the preferred alternative because the fishery would not close or result in a lower ACT in a year following an ACL overage. For example, the fishery was unconstrained in 2013, resulting in 5,250,807 lb (2,382 mt) in landings and \$945,145 in ex-vessel revenue. This is approximately 18 percent higher (\$153,145) than the ex-vessel revenue would have been generated if the preferred alternative in-season closure AMs and

associated possession restrictions would have been in effect in 2013. Despite the potential short-term economic benefits of the no action alternative AMs, the Council did not select them because they would be inconsistent with the Magnuson-Stevens Act and would not prevent an ACL overage or mitigate for the negative impacts of an ACL overage.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: February 26, 2020.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.1, revise paragraph (a) to read as follows:

§ 648.1 Purpose and scope.

* * * * *

(a) This part implements the fishery management plans (FMPs) for the Atlantic mackerel, Atlantic chub mackerel, longfin squid, *Illex* squid, and butterfish fisheries (Mackerel, Squid, and Butterfish FMP); Atlantic salmon (Atlantic Salmon FMP); the Atlantic sea scallop fishery (Scallop FMP); the Atlantic surfclam and ocean quahog fisheries (Atlantic Surfclam and Ocean Quahog FMP); the NE multispecies and monkfish fisheries ((NE Multispecies FMP) and (Monkfish FMP)); the summer flounder, scup, and black sea bass fisheries (Summer Flounder, Scup, and Black Sea Bass FMP); the Atlantic bluefish fishery (Atlantic Bluefish FMP); the Atlantic herring fishery (Atlantic Herring FMP); the spiny dogfish fishery (Spiny Dogfish FMP); the Atlantic deep-sea red crab fishery (Deep-Sea Red Crab FMP); the golden and blueline tilefish fisheries (Tilefish FMP); and the NE skate complex fisheries (Skate FMP). These FMPs and the regulations in this part govern the conservation and management of the above named fisheries of the Northeastern United States.

* * * * *

3. Amend § 648.2 by revising the definitions of “Atlantic mackerel” and “Council,” removing the definition of “Atlantic Mackerel, Squid, and Butterfish Monitoring Committee,” and adding definitions for “Atlantic Chub Mackerel Management Unit,” and “Mackerel, Squid, and Butterfish Monitoring Committee” in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Atlantic Chub Mackerel Management Unit means an area of the Atlantic Ocean in which the United States exercises exclusive jurisdiction over all Atlantic chub mackerel fished for, possessed, caught, or retained in or from that is bounded on the west and north by the coastline of the United States; bounded on the east by the outer limit of the U.S. EEZ; and bounded on the south by a line following the lateral seaward boundary between North Carolina and South Carolina from the coast to the Submerged Lands Act line, approximately 33°48'46.37" N. lat., 78°29'46.46" W. long., and then heading due east along 33°48'46.37" N. lat. to the outer limit of the US Exclusive Economic Zone.

* * * * *

Atlantic mackerel means *Scomber scombrus*.

* * * * *

Council means the New England Fishery Management Council (NEFMC) for the Atlantic herring, Atlantic sea scallop, Atlantic deep-sea red crab, NE multispecies, monkfish, and NE skate fisheries; or the Mid-Atlantic Fishery Management Council (MAFMC) for the Atlantic mackerel, Atlantic chub mackerel, *Illex* squid, longfin squid, and butterfish; Atlantic surfclam and ocean quahog; summer flounder, scup, and black sea bass; spiny dogfish; Atlantic bluefish; and tilefish fisheries.

* * * * *

Mackerel, Squid, and Butterfish Monitoring Committee means the committee made up of staff representatives of the MAFMC and the NEFMC, and the Greater Atlantic Regional Fisheries Office and NEFSC of NMFS. The MAFMC Executive Director or a designee chairs the Committee.

* * * * *

4. Amend § 648.4, by revising the introductory text for paragraph (a)(5), paragraphs (a)(5)(iii)(B), (iii)(C), (iii)(H), (iii)(I), (v), (15), and (c)(2)(vii) to read as follows:

§ 648.4 Vessel permits.

* * * * *

(a) * * *

(5) *Mackerel, squid, and butterfish vessels.* Any vessel of the United States, including party and charter vessels, that fishes for, possesses, or lands Atlantic mackerel, *Illex* squid, longfin squid, or butterfish in or from the EEZ or Atlantic chub mackerel in or from the EEZ portion of the Atlantic Chub Mackerel Management Unit must have been issued and carry on board a valid Federal mackerel, squid, or butterfish vessel permit pursuant to this paragraph (a)(5).

* * * * *

(iii) * * *

(B) *Limited access mackerel permits.* A vessel of the United States that fishes for, possesses, or lands more than 20,000 lb (7.46 mt) of Atlantic mackerel per trip, except vessels that fish exclusively in state waters for Atlantic mackerel, must have been issued and carry on board one of the limited access Atlantic mackerel permits described in paragraphs (a)(5)(iii)(B)(1) through (3) of this section, including both vessels engaged in pair trawl operations.

(1) *Tier 1 Limited Access Atlantic Mackerel Permit.* A vessel may fish for, possess, and land Atlantic mackerel not subject to a trip limit, provided the vessel qualifies for and has been issued this permit, subject to all other regulations of this part.

(2) *Tier 2 Limited Access Atlantic Mackerel Permit.* A vessel may fish for, possess, and land up to 135,000 lb (50 mt) of Atlantic mackerel per trip, provided the vessel qualifies for and has been issued this permit, subject to all other regulations of this part.

(3) *Tier 3 Limited Access Atlantic Mackerel Permit.* A vessel may fish for, possess, and land up to 100,000 lb (37.3 mt) of Atlantic mackerel per trip, provided the vessel qualifies for and has been issued this permit, subject to all other regulations of this part.

(C) *Eligibility criteria for Atlantic mackerel permits.* To be eligible to apply for a Tier 1, Tier 2, or Tier 3 limited access Atlantic mackerel permit to fish for and retain Atlantic mackerel in excess of the incidental catch allowance in paragraph (a)(5)(vi) of this section in the EEZ, a vessel must have been issued a Tier 1, Tier 2, or Tier 3 limited access Atlantic mackerel permit, as applicable, for the preceding year, be replacing a vessel that was issued a limited access permit for the preceding year, or be replacing a vessel that was issued a confirmation of permit history.

* * * * *

(H) *Vessel baseline specification.* (1) In addition to the baseline specifications specified in paragraph (a)(1)(i)(H) of this section, the volumetric fish hold capacity of a vessel at the time it was initially issued a Tier 1 or Tier 2 limited access Atlantic mackerel permit will be considered a baseline specification. The fish hold capacity measurement must be certified by one of the following qualified individuals or entities: An individual credentialed as a Certified Marine Surveyor with a fishing specialty by the National Association of Marine Surveyors (NAMS); an individual credentialed as an Accredited Marine Surveyor with a fishing specialty by the Society of Accredited Marine Surveyors (SAMS); employees or agents of a classification society approved by the Coast Guard

pursuant to 46 U.S.C. 3316(c); the Maine State Sealer of Weights and Measures; a professionally-licensed and/or registered Marine Engineer; or a Naval Architect with a professional engineer license. The fish hold capacity measurement submitted to NMFS as required in this paragraph (a)(5)(iii)(H)(I) must include a signed certification by the individual or entity that completed the measurement, specifying how they meet the definition of a qualified individual or entity.

(2) If an Atlantic mackerel CPH is initially issued, the vessel that provided the CPH eligibility establishes the size baseline against which future vessel size limitations shall be evaluated, unless the applicant has a vessel under contract prior to the submission of the Atlantic mackerel limited access application. If the vessel that established the CPH is less than 20 ft (6.09 m) in length overall, then the baseline specifications associated with other limited access permits in the CPH suite will be used to establish the Atlantic mackerel baseline specifications. If the vessel that established the CPH is less than 20 ft (6.09 m) in length overall, the limited access Atlantic mackerel eligibility was established on another vessel, and there are no other limited access permits in the CPH suite, then the applicant must submit valid documentation of the baseline specifications of the vessel that established the eligibility. The hold capacity baseline for such vessels will be the hold capacity of the first replacement vessel after the permits are removed from CPH. Hold capacity for the replacement vessel must be measured pursuant to paragraph (a)(5)(iii)(H)(I) of this section.

(I) *Upgraded vessel.* See paragraph (a)(1)(i)(F) of this section. In addition, for Tier 1 and Tier 2 limited access Atlantic mackerel permits, the replacement vessel's volumetric fish hold capacity may not exceed by more than 10 percent the volumetric fish hold

capacity of the vessel's baseline specifications. The modified fish hold, or the fish hold of the replacement vessel, must be resurveyed by a surveyor (accredited as in paragraph (a)(5)(iii)(H) of this section) unless the replacement vessel already had an appropriate certification.

* * * * *

(v) *Party and charter boat permits.* The owner of any party or charter boat that fishes for, possesses, or retains Atlantic mackerel, *Illex* squid, longfin squid, or butterfish in or from the EEZ or Atlantic chub mackerel in or from the EEZ portion of the Atlantic Chub Mackerel Management Unit, while carrying passengers for hire must have been issued and carry on board a valid Federal vessel permit pursuant to this paragraph (a)(5).

* * * * *

(15) *Mid-Atlantic forage species.* Any commercial fishing vessel of the United States must have been issued and have on board a valid Federal commercial vessel permit issued by GARFO pursuant to this section to fish for, possess, transport, sell, or land Mid-Atlantic forage species in or from the EEZ portion of the Mid-Atlantic Forage Species Management Unit, as defined at §648.351(b). A vessel that fishes for such species exclusively in state waters is not required to be issued a Federal permit.

* * * * *

(c) * * *

(2) * * *

(vii) The owner of a vessel that has been issued a Tier 1 or Tier 2 limited access Atlantic mackerel must submit a volumetric fish hold certification measurement, as

described in paragraph (a)(5)(iii)(H) of this section, with the permit renewal application for the 2013 fishing year.

* * * * *

5. In § 648.5, revise paragraph (a) to read as follows:

§ 648.5 Operator permits.

* * * * *

(a) *General.* Any operator of a vessel fishing for or possessing: Atlantic sea scallops, NE multispecies, spiny dogfish, monkfish, Atlantic herring, Atlantic surfclam, ocean quahog, Atlantic mackerel, *Illex* squid, longfin squid, butterfish, scup, black sea bass, or Atlantic bluefish, harvested in or from the EEZ; golden tilefish or blueline tilefish harvested in or from the EEZ portion of the Tilefish Management Unit; skates harvested in or from the EEZ portion of the Skate Management Unit; Atlantic deep-sea red crab harvested in or from the EEZ portion of the Red Crab Management Unit; Mid-Atlantic forage species harvested in the Mid-Atlantic Forage Species Management Unit; or Atlantic chub mackerel harvested in or from the EEZ portion of the Atlantic Chub Mackerel Management Unit that is issued a permit, including carrier and processing permits, for these species under this part must have been issued under this section, and carry on board, a valid operator permit. An operator's permit issued pursuant to part 622 or part 697 of this chapter satisfies the permitting requirement of this section. This requirement does not apply to operators of recreational vessels.

* * * * *

6. In § 648.6, revise paragraph (a)(1) to read as follows:

§ 648.6 Dealer/processor permits.

* * * * *

(a) * * *

(1) All dealers of NE multispecies, monkfish, skates, Atlantic herring, Atlantic sea scallop, Atlantic deep-sea red crab, spiny dogfish, summer flounder, Atlantic surfclam, ocean quahog, Atlantic mackerel, *Illex* squid, longfin squid, butterfish, scup, bluefish, golden tilefish, blueline tilefish, and black sea bass; Atlantic surfclam and ocean quahog processors; Atlantic hagfish dealers and/or processors, and Atlantic herring processors or dealers, as described in § 648.2; must have been issued under this section, and have in their possession, a valid permit or permits for these species. A dealer of Atlantic chub mackerel must have been issued and have in their possession, a valid dealer permit for Atlantic mackerel, *Illex* squid, longfin squid, or butterfish in accordance with this paragraph. A dealer of Mid-Atlantic forage species must have been issued and have in their possession, a valid dealer permit for any species issued in accordance with this paragraph.

* * * * *

7. In § 648.7, revise the introductory text of paragraph (a)(1) and (b)(3)(ii) to read as follows.

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(a) * * *

(1) Federally permitted dealers, and any individual acting in the capacity of a dealer, must submit to the Regional Administrator or to the official designee a detailed report of all fish purchased or received for a commercial purpose, other than solely for

transport on land, within the time period specified in paragraph (f) of this section, by one of the available electronic reporting mechanisms approved by NMFS, unless otherwise directed by the Regional Administrator. The following information, and any other information required by the Regional Administrator, must be provided in each report:

* * * * *

(b) * * *

(3) * * *

(ii) *Atlantic mackerel owners or operators.* The owner or operator of a vessel issued a limited access Atlantic mackerel permit must report catch (retained and discarded) of Atlantic mackerel daily via VMS, unless exempted by the Regional Administrator. The report must include at least the following information, and any other information required by the Regional Administrator: Fishing Vessel Trip Report serial number; month, day, and year Atlantic mackerel was caught; total pounds of Atlantic mackerel retained and total pounds of all fish retained. Daily Atlantic mackerel VMS catch reports must be submitted in 24-hr intervals for each day and must be submitted by 0900 hr on the following day. Reports are required even if Atlantic mackerel caught that day have not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

* * * * *

8. In § 648.10, revise paragraph (n) to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(n) *Limited access Atlantic mackerel VMS notification requirements.*

(1) A vessel issued a limited access Atlantic mackerel permit intending to declare into the Atlantic mackerel fishery must notify NMFS by declaring an Atlantic mackerel trip prior to leaving port at the start of each trip in order to harvest, possess, or land Atlantic mackerel on that trip.

(2) A vessel issued a limited access Atlantic mackerel permit intending to land more than 20,000 lb (9.07 mt) of Atlantic mackerel must notify NMFS of the time and place of offloading at least 6 hr prior prior to arrival, or, if fishing ends less than 6 hours before arrival, immediately upon leaving the fishing grounds. The Regional Administrator may adjust the prior notification minimum time through publication in the **Federal Register** consistent with the Administrative Procedure Act.

* * * * *

9. In § 648.11, revise paragraphs (n)(1)(ii) through (iv) to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(n) * * *

(1) * * *

(ii) A vessel that has a representative provide notification to NMFS as described in paragraph (n)(1)(i) of this section may only embark on an Atlantic mackerel trip without an observer if a vessel representative has been notified by NMFS that the vessel has received a waiver of the observer requirement for that trip. NMFS shall notify a vessel representative whether the vessel must carry an observer, or if a waiver has been granted, for the specific Atlantic mackerel trip, within 24 hr of the vessel representative's notification of the prospective Atlantic mackerel trip, as specified in paragraph (n)(1)(i) of

this section. Any request to carry an observer may be waived by NMFS. A vessel that fishes with an observer waiver confirmation number that does not match the Atlantic mackerel trip plan that was called in to NMFS is prohibited from fishing for, possessing, harvesting, or landing Atlantic mackerel except as specified in paragraph (n)(1)(iii) of this section. Confirmation numbers for trip notification calls are only valid for 48 hr from the intended sail date.

(iii) *Trip limits*: A vessel issued a limited access Atlantic mackerel permit, as specified in § 648.4(a)(5)(iii), that does not have a representative provide the trip notification required in paragraph (n)(1)(i) of this section is prohibited from fishing for, possessing, harvesting, or landing more than 20,000 lb (9.07 mt) of Atlantic mackerel per trip at any time, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(iv) If a vessel issued a limited access Atlantic mackerel permit, as specified in § 648.4(a)(5)(iii), intends to possess, harvest, or land more than 20,000 lb (9.07 mt) of Atlantic mackerel per trip or per calendar day, and has a representative notify NMFS of an upcoming trip, is selected by NMFS to carry an observer, and then cancels that trip, the representative is required to provide notice to NMFS of the vessel name, vessel permit number, contact name for coordination of observer deployment, and telephone number or email address for contact, and the intended date, time, and port of departure for the cancelled trip prior to the planned departure time. In addition, if a trip selected for observer coverage is cancelled, then that vessel is required to carry an observer, provided an observer is available, on its next trip.

* * * * *

10. In § 648.12, revise the introductory text to read as follows:

§ 648.12 Experimental fishing.

The Regional Administrator may exempt any person or vessel from the requirements of subparts A (General provisions), B (mackerel, squid, and butterfish), D (Atlantic sea scallop), E (Atlantic surfclam and ocean quahog), F (NE multispecies and monkfish), G (summer flounder), H (scup), I (black sea bass), J (Atlantic bluefish), K (Atlantic herring), L (spiny dogfish), M (Atlantic deep-sea red crab), N (tilefish), O (skates), and P (Mid-Atlantic forage species) of this part for the conduct of experimental fishing beneficial to the management of the resources or fishery managed under that subpart. The Regional Administrator shall consult with the Executive Director of the MAFMC before approving any exemptions for the Atlantic chub mackerel, Atlantic mackerel, *Illex* squid, longfin squid butterfish, summer flounder, scup, black sea bass, spiny dogfish, bluefish, and tilefish fisheries, including exemptions for experimental fishing contributing to the development of new or expansion of existing fisheries for Mid-Atlantic forage species.

* * * * *

11. Amend § 648.14 by revising the introductory text paragraphs (g)(2), (v), and (g)(3); and paragraphs (g)(1)(i), (ii)(A), (g)(2)(ii)(C), (ii)(D), (ii)(F), (ii)(G), (v)(A), (g)(3)(ii) through (iii), (g)(4), and (w) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(g) * * *

(1) * * *

(i) *Possession and landing.* Take and retain, possess, or land more Atlantic chub mackerel, Atlantic mackerel, *Illex* squid, longfin squid, or butterfish than specified under, or after the effective date of, a notification issued under §§ 648.22 or 648.24(d).

(ii) * * *

(A) Purchase or otherwise receive for a commercial purpose; other than solely for transport on land; Atlantic chub mackerel, Atlantic mackerel, *Illex* squid, longfin squid, or butterfish caught by a vessel that has not been issued a Federal Atlantic mackerel, *Illex* squid, longfin squid, or butterfish vessel permit, unless the vessel fishes exclusively in state waters.

* * * * *

(2) *Vessel and operator permit holders.* Unless participating in a research activity as described in § 648.22(g), it is unlawful for any person owning or operating a vessel issued a valid Atlantic mackerel, *Illex* squid, longfin squid, or butterfish fishery permit, or issued an operator's permit, to do any of the following:

* * * * *

(ii) * * *

(C) Possess more than the incidental catch allowance of Atlantic mackerel, unless issued a limited access Atlantic mackerel permit.

(D) Take and retain, possess, or land Atlantic chub mackerel, Atlantic mackerel, squid, or butterfish in excess of a possession limit specified in § 648.26.

* * * * *

(F) Take and retain, possess, or land more than 5,000 lb (2.27 mt) of Atlantic mackerel after a closure of the entire commercial fishery, as specified under § 648.24(b)(1).

(G) Fish for, possess, transfer, receive, or sell; or attempt to fish for, possess, transfer, receive, or sell; more than 20,000 lb (9.08 mt) of Atlantic mackerel per trip; or land, or attempt to land more than 20,000 lb (9.08 mt) of Atlantic mackerel per day after 95 percent of the river herring and shad cap has been harvested, if the vessel holds a valid Atlantic mackerel permit.

* * * * *

(v) *VMS reporting requirements in the directed Atlantic mackerel, longfin squid, and *Illex* squid fisheries.*

(A) Fail to declare via VMS into the directed Atlantic mackerel, longfin squid, or *Illex* squid fisheries by entering the fishery code prior to leaving port at the start of each trip if the vessel will harvest, possess, or land more than an incidental catch of Atlantic mackerel, longfin squid, or *Illex* squid and is issued a limited access Atlantic mackerel permit, Tier 1 or Tier 2 longfin squid moratorium permit, or *Illex* squid moratorium permit.

* * * * *

(3) *Charter/party restrictions.* Unless participating in a research activity as described in § 648.22(g), it is unlawful for the owner and operator of a party or charter boat issued an Atlantic mackerel, *Illex* squid, longfin squid, or butterfish fishery permit (including a moratorium permit), when the boat is carrying passengers for hire, to do any of the following:

* * * * *

(ii) Sell or transfer Atlantic chub mackerel, Atlantic mackerel, *Illex* squid, longfin squid, or butterfish to another person for a commercial purpose.

(iii) Carry passengers for hire while fishing commercially under an Atlantic mackerel, *Illex* squid, longfin squid, or butterfish fishery permit.

(4) *Presumption.* For purposes of this part, the following presumption applies: All Atlantic chub mackerel, Atlantic mackerel and butterfish possessed on board a party or charter boat issued a Federal Atlantic mackerel, *Illex* squid, longfin squid, or butterfish fishery permit are deemed to have been harvested from the EEZ, unless the preponderance of evidence demonstrates that such species were harvested by a vessel without a Federal Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit and fishing exclusively in state waters or, for Atlantic chub mackerel, outside of the Atlantic Chub Mackerel Management Unit.

* * * * *

(w) *Mid-Atlantic forage species.* It is unlawful for any person owning or operating a vessel issued a valid commercial permit under this part to fish for, possess, transfer, receive, or land; or attempt to fish for, possess, transfer, receive, or land; more than 1,700 lb (771.11 kg) of all Mid-Atlantic forage species combined per trip in or from the Mid-Atlantic Forage Species Management Unit, as defined at § 648.351(b). A vessel not issued a commercial permit in accordance with §648.4 that fished exclusively in state waters or a vessel that fished Federal waters outside of the Mid-Atlantic Forage Species Management Unit that is transiting the area with gear that is stowed and not available for immediate use is exempt from this prohibition.

* * * * *

12. Revise § 648.18 to read as follows:

§ 648.18 Standardized bycatch reporting methodology.

NMFS shall comply with the Standardized Bycatch Reporting Methodology (SBRM) provisions established in the following fishery management plans by the Standardized Bycatch Reporting Methodology: An Omnibus Amendment to the Fishery Management Plans of the Mid-Atlantic and New England Regional Fishery Management Councils, completed March 2015, also known as the SBRM Omnibus Amendment, by the New England Fishery Management Council, Mid-Atlantic Fishery Management Council, National Marine Fisheries Service Greater Atlantic Regional Fisheries Office, and National Marine Fisheries Service Northeast Fisheries Science Center: Atlantic Bluefish; Mackerel, Squid, and Butterfish; Atlantic Sea Scallop; Atlantic Surfclam and Ocean Quahog; Atlantic Herring; Atlantic Salmon; Deep-Sea Red Crab; Monkfish; Northeast Multispecies; Northeast Skate Complex; Spiny Dogfish; Summer Flounder, Scup, and Black Sea Bass; and Tilefish. The Director of the **Federal Register** approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy of the SBRM Omnibus Amendment from the Greater Atlantic Regional Fisheries Office (www.greateratlantic.fisheries.noaa.gov, 978-281-9300). You may inspect a copy at the Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

* * * * *

13. Under part 648, revise the title of subpart B to read as follows:

Subpart B—Management Measures for the Mackerel, Squid, and Butterfish Fisheries

14. Amend §648.22 by:

- a. Revising the section heading, introductory text for paragraphs (a), (b)(2), (iv)(A), (v), (c); and paragraphs (a)(2), (3), (b)(2)(i) through (ii), (b)(2)(iv)(A)(I) and (2), (v)(A), (b)(3)(v), (vii), (c)(1)(ii), (c)(2), (3), (6), (9), and (d)(1); and
- b. Adding paragraphs (a)(5) and (b)(5).

The additions and revisions read as follows:

§ 648.22 Mackerel, squid, and butterfish specifications.

(a) *Initial recommended annual specifications.* The Mackerel, Squid, and Butterfish Monitoring Committee (Monitoring Committee) shall meet annually to develop and recommend the following specifications for consideration by the Mackerel, Squid, and Butterfish Committee of the MAFMC:

* * * * *

(2) *Butterfish*—Annual catch limit (ACL); Annual catch target (ACT) including RSA, DAH, DAP; bycatch level of the total allowable level of foreign fishing (TALFF), if any; and butterfish discard cap for the longfin squid fishery for butterfish; which, subject to annual review, may be specified for a period of up to 3 years;

(3) *Atlantic mackerel*—ACL; commercial ACT, including RSA, DAH, Atlantic mackerel Tier 3 landings cap (up to 7 percent of the DAH), DAP; joint venture processing (JVP) if any; TALFF, if any; and recreational ACT, including RSA for Atlantic mackerel; which, subject to annual review, may be specified for a period of up to 3 years. The

Monitoring Committee may also recommend that certain ratios of TALFF, if any, for Atlantic mackerel to purchases of domestic harvested fish and/or domestic processed fish be established in relation to the initial annual amounts.

* * * * *

(5) Atlantic chub mackerel—ACL, ACT, and total allowable landings (TAL), which, subject to annual review, may be specified for a period of up to 3 years.

(b) * * *

(2) *Atlantic Mackerel*—(i) *ABC*. The MAFMC's SSC shall recommend a stock-wide ABC to the MAFMC, as described in §648.20. The stock-wide Atlantic mackerel ABC is reduced from the OFL based on an adjustment for scientific uncertainty; the stock-wide ABC must be less than or equal to the OFL.

(ii) *ACL*. The ACL or Domestic ABC is calculated using the formula $ACL/Domestic\ ABC = stock-wide\ ABC - C$, where C is the estimated catch of Atlantic mackerel in Canadian waters for the upcoming fishing year.

* * * * *

(iv) * * *

(A) *Commercial sector ACT*. Commercial ACT is composed of RSA, DAH, Tier 3 landings cap (up to 7 percent of DAH), dead discards, and TALFF, if any. RSA will be based on requests for research quota as described in paragraph (g) of this section. DAH, Tier 3 landings cap (up to 7 of the DAH), DAP, and JVP will be set after deduction for RSA, if applicable, and must be projected by reviewing data from sources specified in paragraph (b) of this section and other relevant data, including past domestic landings, projected amounts of Atlantic mackerel necessary for domestic processing and for joint

ventures during the fishing year, projected recreational landings, and other data pertinent for such a projection. The JVP component of DAH is the portion of DAH that domestic processors either cannot or will not use. Economic considerations for the establishment of JVP and TALFF include:

- (1) Total world export potential of Atlantic mackerel producing countries.
- (2) Total world import demand of Atlantic mackerel consuming countries.

* * * * *

(v) *Performance review.* The Mackerel, Squid, and Butterfish Committee shall conduct a detailed review of fishery performance relative to the Atlantic mackerel ACL at least every 5 years.

(A) If the Atlantic mackerel ACL is exceeded with a frequency greater than 25 percent (i.e., more than once in 4 years or any two consecutive years), the Mackerel, Squid, and Butterfish Monitoring Committee will review fishery performance information and make recommendations to the MAFMC for changes in measures intended to ensure ACLs are not exceeded as frequently.

* * * * *

(3) * * *

(v) The butterfish discard cap will be based on a portion of the ACT (set annually during specifications) and the specified cap amount will be allocated to the longfin squid fishery as follows: Trimester I—43 percent; Trimester II—17 percent; and Trimester III—40 percent.

* * * * *

(vii) *Performance review*. The Mackerel, Squid, and Butterfish Committee shall conduct a detailed review of fishery performance relative to the butterflyfish ACL in conjunction with review for the Atlantic mackerel fishery, as outlined in this section.

* * * * *

(5) *Atlantic chub mackerel*—(i) *ABC*. The MAFMC's SSC shall recommend a stock-wide ABC to the MAFMC, as described in §648.20. The stock-wide Atlantic chub mackerel ABC is reduced from the OFL based on an adjustment for scientific uncertainty; the stock-wide ABC must be less than or equal to the OFL.

(ii) *Maximum sustainable yield (MSY)*. The Atlantic chub mackerel MSY shall be set equal to the Atlantic chub mackerel ABC.

(iii) *OY*. The Atlantic chub mackerel OY shall be set equal to or less than the Atlantic chub mackerel ABC.

(iv) *ACL*. The ACL for the Atlantic Chub Mackerel Management Unit is calculated by subtracting an estimate of Atlantic chub mackerel catch from South Carolina through Florida from the Atlantic chub mackerel ABC or OY, whichever is less. The Monitoring Committee shall recommend an appropriate estimate of such catch on an annual basis through the specifications process. The ACL shall apply to both commercial and recreational catch of Atlantic chub mackerel; there will not be separate ACLs for the commercial and recreational Atlantic chub mackerel fisheries.

(v) *ACT*. The Atlantic chub mackerel ACT shall be equal to or less than the Atlantic chub mackerel ACL after deducting an estimate of management uncertainty. The Monitoring Committee shall identify and review relevant sources of management

uncertainty to recommend an overall ACT to the MAFMC for both the commercial and recreational fishing sectors as part of the specifications process.

(vi) *TAL*. The Atlantic chub mackerel TAL shall be equal to or less than the Atlantic chub mackerel ACT after deducting an estimate of dead discards in both the commercial and recreational fisheries. The Monitoring Committee shall evaluate available data to recommend an estimate of total discards used to calculate the TAL in its recommendation to the MAFMC as part of the specifications process.

(c) *Recommended measures*. Based on the review of the data described in paragraph (b) of this section and requests for research quota as described in paragraph (g) of this section, the Monitoring Committee will recommend to the Mackerel, Squid, and Butterfish Committee the measures from the following list that it determines are necessary to ensure that the specifications are not exceeded:

(1) * * *

(ii) The commercial and/or recreational ACT for Atlantic mackerel.

* * * * *

(2) Commercial quotas or total allowable landing limits, set after reductions for research quotas, management uncertainty, discards, an estimate of Atlantic chub mackerel catch from South Carolina through Florida, or any other applicable deduction specified in this section.

(3) The amount of longfin squid, *Illex* squid, and butterfish that may be retained and landed by vessels issued the incidental catch permit specified in § 648.4(a)(5)(vi), and the amount of Atlantic mackerel that may be retained, possessed and landed by any of the

limited access Atlantic mackerel permits described at § 648.4(a)(5)(iii) and the incidental Atlantic mackerel permit at § 648.4(a)(5)(iv).

* * * * *

(6) Commercial seasonal quotas/closures for longfin squid, *Illex* squid, and Atlantic chub mackerel; and landings cap for the Tier 3 Limited Access Atlantic mackerel permit.

* * * * *

(9) Recreational allocation for Atlantic mackerel.

* * * * *

(d) * * *

(1) The Mackerel, Squid, and Butterfish Committee will review the recommendations of the Monitoring Committee. Based on these recommendations and any public comment received thereon, the Mackerel, Squid, and Butterfish Committee must recommend to the MAFMC appropriate specifications and any measures necessary to assure that the specifications will not be exceeded. The MAFMC will review these recommendations and, based on the recommendations and any public comment received thereon, must recommend to the Regional Administrator appropriate specifications and any measures necessary to assure that the ACL will not be exceeded. The MAFMC's recommendations must include supporting documentation, as appropriate, concerning the environmental, economic, and social impacts of the recommendations. The Regional Administrator will review the recommendations and will publish a proposed rule in the **Federal Register** proposing specifications and any measures necessary to assure that the specifications will not be exceeded and providing a 30-day public comment period. If the

proposed specifications differ from those recommended by the MAFMC, the reasons for any differences must be clearly stated and the revised specifications must satisfy the criteria set forth in this section. The MAFMC's recommendations will be available for inspection at the office of the Regional Administrator during the public comment period. If the annual specifications for *Illex* squid, longfin squid, Atlantic mackerel, Atlantic chub mackerel, or butterfish are not published in the **Federal Register** prior to the start of the fishing year, the previous year's annual specifications, excluding specifications of TALFF, will remain in effect. The previous year's specifications will be superseded as of the effective date of the final rule implementing the current year's annual specifications.

* * * * *

15. In § 648.23, revise paragraph (a)(2)(ii) to read as follows:

§ 648.23 Mackerel, squid, and butterfish gear restrictions.

* * * * *

(a) * * *

(2) * * *

(ii) *Jigging exemption*. During closures of the longfin squid fishery resulting from the butterfish discard cap, described in § 648.24(c)(3), vessels fishing for longfin squid using jigging gear are exempt from the closure possession limit specified in § 648.26(b), provided that all otter trawl gear is stowed and not available for immediate use as defined in § 648.2.

* * * * *

16. Amend § 648.24 by:

a. Revising the introductory text to paragraphs (b) and (4); paragraphs (b)(1)(i)(B), (2), (3), (5), (6), (c)(3), and (5); and

b. Adding paragraph (e).

The revisions and additions read as follows:

§ 648.24 Fishery closures and accountability measures.

* * * * *

(b) *Atlantic Mackerel AMs*

(1) * * *

(i) * * *

(B) Unless previously closed pursuant to paragraph (b)(1)(i)(A) of this section, NMFS will close the Tier 3 commercial Atlantic mackerel fishery in the EEZ when the Regional Administrator projects that 90 percent of the Tier 3 Atlantic mackerel landings cap will be harvested. Unless otherwise restricted, the closure of the Tier 3 commercial Atlantic mackerel fishery will be in effect for the remainder of that fishing period, with incidental catches allowed as specified in § 648.26.

* * * * *

(2) *Atlantic mackerel commercial landings overage repayment.* If the Atlantic mackerel ACL is exceeded and commercial fishery landings are responsible for the overage, then landings in excess of the DAH will be deducted from the DAH the following year, as a single-year adjustment to the DAH.

(3) *Non-landing AMs.* In the event that the Atlantic mackerel ACL is exceeded, and that the overage has not been accommodated through the landing-based AM described in paragraph (b)(2) of this section, but is attributable to the commercial sector, then the

exact amount, in pounds, by which the commercial Atlantic mackerel ACT was exceeded will be deducted from the following year's commercial Atlantic mackerel ACT, as a single-year adjustment.

(4) *Atlantic mackerel recreational AMs.* If the Atlantic mackerel ACL is exceeded and the recreational fishery landings are responsible for the overage, then the following procedure will be followed:

* * * * *

(5) *Atlantic mackerel ACL overage evaluation.* The Atlantic mackerel ACL will be evaluated based on a single-year examination of total catch (landings and discards). Both landings and dead discards will be evaluated in determining if the Atlantic mackerel ACL has been exceeded. NMFS shall make determinations about overages and implement any changes to the Atlantic mackerel ACL, in accordance with the Administrative Procedure Act, through notification in the **Federal Register**, by May 15 of the fishing year in which the deductions will be made.

(6) *River herring and shad catch cap.* The river herring and shad cap on the Atlantic mackerel fishery applies to all trips that land more than 20,000 lb (9.08 mt) of Atlantic mackerel. NMFS shall close the limited access Atlantic mackerel fishery in the EEZ when the Regional Administrator projects that 95 percent of the river herring/shad catch cap has been harvested. Following closures of the limited access Atlantic mackerel fishery, vessels must adhere to the possession restrictions specified in §648.26.

* * * * *

(c) * * *

(3) *Butterfish discard cap on the longfin squid fishery.* NMFS shall close the directed fishery in the EEZ for longfin squid when the Regional Administrator projects that 95 percent of each Trimester's butterfish discard cap allocation has been harvested.

* * * * *

(5) *Butterfish allocation transfer.* NMFS may transfer up to 50 percent of any unused butterfish allocation from the butterfish DAH to the butterfish discard cap on the longfin squid fishery if the butterfish catch in the longfin squid fishery is likely to result in a closure of the longfin squid fishery, and provided the transfer does not increase the likelihood of closing the directed butterfish fishery. NMFS may instead transfer up to 50 percent of the unused butterfish catch from the butterfish discard cap allocation to the butterfish DAH if harvest of butterfish in the directed butterfish fishery is likely to exceed the butterfish DAH, and provided the transfer of butterfish allocation from the butterfish discard cap allocation does not increase the likelihood of closing the longfin squid fishery due to harvest of the butterfish discard cap. NMFS would make this transfer on or about November 15 each fishing year, in accordance with the Administrative Procedure Act.

(d) *Notification.* Upon determining that a closure or trip limit reduction is necessary, the Regional Administrator will notify, in advance of the closure, the Executive Directors of the MAFMC, NEFMC, and SAFMC; mail notification of the closure or trip limit reduction to all holders of Atlantic mackerel, *Illex* squid, longfin squid, and butterfish fishery permits at least 72 hr before the effective date of the closure; provide adequate notice of the closure or trip limit reduction to recreational participants in the fishery; and publish notification of the closure or trip limit reduction in the **Federal Register**.

(e) *Atlantic Chub Mackerel AMs.*

(1) *Commercial fishery closures.*

(i) When the Regional Administrator projects that 90 percent of the Atlantic chub mackerel TAL will be landed, the Regional Administrator will reduce the Atlantic chub mackerel possession limit as specified in § 648.26(e)(2)(i) through notification in the **Federal Register**.

(ii) When the Regional Administrator projects that 100 percent of the Atlantic chub mackerel TAL will be landed, the Regional Administrator will reduce the Atlantic chub mackerel possession limit as specified in § 648.26(e)(2)(ii) for the remainder of the fishing year (December 31) through notification in the **Federal Register**.

(2) *Overage repayment.* The Regional Administrator will evaluate both landings and dead discards in a single year to determine if the Atlantic chub mackerel ACL specified in § 648.22(b)(5) has been exceeded. If the Atlantic chub mackerel ACL has been exceeded, then catch in excess of the Atlantic chub mackerel ACT will be deducted from the Atlantic chub mackerel ACT as soon as possible in a following year as a single-year adjustment to the ACT. The Regional Administrator shall implement any changes to the Atlantic chub mackerel ACT through notification in the **Federal Register** in accordance with the Administrative Procedure Act.

(3) *Transiting.* Any vessel issued a valid commercial Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit in accordance with §648.4 may transit the Atlantic Chub Mackerel Management Unit with an amount of Atlantic chub mackerel on board that exceeds the possession limits specified in this section to land in a port that is within the Atlantic Chub Mackerel Management Unit, provided that all Atlantic chub

mackerel was harvested outside of the Atlantic Chub Mackerel Management Unit and that all gear is stowed and not available for immediate use as defined in §648.2.

* * * * *

17. Amend § 648.25 by revising the section heading and introductory text paragraph (a) to read as follows:

§ 648.25 Mackerel, squid, and butterfish framework adjustments to management measures.

(a) *Within season management action.* The MAFMC may, at any time, initiate action to add or adjust management measures within the Mackerel, Squid, and Butterfish FMP if it finds that action is necessary to meet or be consistent with the goals and objectives of the FMP. However, any changes to Atlantic chub mackerel measures contained in this part 648 must be made through an amendment to the FMP and cannot be conducted through a framework adjustment.

* * * * *

18. Amend § 648.26 by revising paragraphs (a)(1) and (2)(i)(B), and adding paragraph (e) to read as follows:

§ 648.26 Mackerel, squid, and butterfish possession restrictions.

* * * * *

(a) * * *

(1) *Initial possession limits.* A vessel must be issued a valid limited access Atlantic mackerel permit to fish for, possess, or land more than 20,000 lb (9.08 mt) of Atlantic mackerel from or in the EEZ per trip, provided that the fishery has not been closed, as specified in § 648.24(b)(1).

(i) A vessel issued a Tier 1 limited access Atlantic mackerel permit is authorized to fish for, possess, or land Atlantic mackerel with no possession restriction in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 90 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i)(A).

(ii) A vessel issued a Tier 2 limited access Atlantic mackerel permit is authorized to fish for, possess, or land up to 135,000 lb (61.23 mt) of Atlantic mackerel in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 90 percent of the DAH has been harvested, as specified in § 648.24(b)(1)(i)(A).

(iii) A vessel issued a Tier 3 limited access Atlantic mackerel permit is authorized to fish for, possess, or land up to 100,000 lb (45.36 mt) of Atlantic mackerel in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours, provided that the fishery has not been closed because 90 percent of the DAH has been harvested, or 90 percent of the Tier 3 landings cap has been harvested, as specified in § 648.24(b)(1)(i)(A) and (B), respectively.

(iv) A vessel issued an open access Atlantic mackerel permit may fish for, possess, or land up to 20,000 lb (9.08 mt) of Atlantic mackerel in the EEZ per trip, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

(v) Both vessels involved in a pair trawl operation must be issued a valid Atlantic mackerel permits to fish for, possess, or land Atlantic mackerel in the EEZ. Both vessels must be issued the Atlantic mackerel permit appropriate for the amount of Atlantic mackerel jointly possessed by both of the vessels participating in the pair trawl operation.

* * * * *

(2) * * *

(i) * * *

(B) During a closure of the Tier 3 commercial Atlantic mackerel fishery pursuant to § 648.24(b)(1)(i)(B), when 90 percent of the Tier 3 landings cap is harvested, vessels issued a Tier 3 limited access Atlantic mackerel permit may not take and retain, possess, or land more than 20,000 lb (9.08 mt) of Atlantic mackerel per trip at any time, and may only land Atlantic mackerel once on any calendar day, which is defined as the 24-hr period beginning at 0001 hours and ending at 2400 hours.

* * * * *

(e) *Atlantic chub mackerel*. A vessel must be issued a valid Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit to fish for, possess, or land any Atlantic chub mackerel from or in the Atlantic Chub Mackerel Management Unit within the EEZ per trip. A vessel not issued a valid Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit in accordance with § 648.4 that is fishing exclusively in state waters or in the EEZ outside of the Atlantic Chub Mackerel Management Unit is exempt from the possession limits specified in this section.

(1) *Initial commercial possession limits*. A vessel issued a valid commercial Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit is authorized to fish for,

possess, and land an unlimited amount of Atlantic chub mackerel per trip from the EEZ portion of the Atlantic Chub Mackerel Management Unit, provided that the fishery has not been closed, as specified in § 648.24(e)(1).

(2) *Commercial fishery closure possession limits.* Once the commercial fishery is closed in accordance with § 648.24(e)(1), the possession limits specified in this paragraph (e)(2) will apply. A vessel not issued a Federal commercial Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit in accordance with § 648.4 that fished exclusively in state waters or a vessel that fished in Federal waters outside of the Atlantic Chub Mackerel Management Unit that is transiting the area with gear that is stowed and not available for immediate use is exempt from the possession limits specified in this paragraph (e)(2).

(i) When the Regional Administrator projects that 90 percent of the commercial Atlantic chub mackerel TAL has been landed, a vessel issued a commercial Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit may not fish for, possess, or land more than 40,000 lb (18.14 mt) of Atlantic chub mackerel at any time per trip in the EEZ portion of the Atlantic Chub Mackerel Management Unit.

(ii) When the Regional Administrator projects that 100 percent of the commercial Atlantic chub mackerel TAL has been landed, a vessel issued a commercial Atlantic mackerel, *Illex* squid, longfin squid, or butterfish permit fish for, possess, or land more than 10,000 lb (4.54 mt) of Atlantic chub mackerel at any time per trip in the EEZ portion of the Atlantic Chub Mackerel Management Unit.

* * * * *

19. Amend § 648.80 by revising paragraph (b)(3)(i) and adding paragraph (c)(5)(iii) to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(b) * * *

(3) * * *

(i) *Species exemption.* Unless otherwise restricted in §648.86, owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(4) and (b)(2) of this section may fish for, harvest, possess, or land butterfish, dogfish (caught by trawl only), herring, Atlantic chub mackerel, Atlantic mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake and offshore hake, and weakfish with nets of a mesh size smaller than the minimum size specified in the GB and SNE Regulated Mesh Areas when fishing in the SNE Exemption Area defined in paragraph (b)(10) of this section, provided such vessels comply with requirements specified in paragraph (b)(3)(ii) of this section and with the mesh size and possession limit restrictions specified under § 648.86(d).

* * * * *

(c) * * *

(5) * * *

(iii) *Atlantic chub mackerel fishery exemption.* Owners and operators of vessels subject to the minimum mesh size restrictions specified in paragraphs (b)(2) and (c)(2) of this section may fish for, harvest, possess, or land Atlantic chub mackerel with nets of a mesh size smaller than the minimum size specified in the SNE Regulated Mesh Area

when fishing in the MA Exemption Area defined in paragraph (c)(5)(i) of this section, provided such vessels comply with the following requirements:

(A) *Gear restrictions.* A vessel fishing for Atlantic chub mackerel within the MA Exemption Area must comply with the gear restrictions specified in § 648.23.

(B) *Possession limits.* A vessel fishing for Atlantic chub mackerel within the MA Exemption Area may fish for, possess on board, or land Atlantic chub mackerel, Atlantic mackerel, butterfish, *Illex* squid, and longfin squid up to the amount specified in § 648.26, and other incidentally caught species up to the amounts specified in paragraph (b)(3) of this section.

* * * * *

20. In part 648, revise the heading of subpart P to read as follows:

Subpart P—Mid-Atlantic Forage Species

21. In § 648.350:

- a. Revise the section heading; and
- b. Reserve paragraph (b).

The revision reads as follows:

§ 648.350 Mid-Atlantic forage species landing limits.

22. Amend § 648.351 by revising the section heading and paragraphs (a) through (c) to read as follows:

§ 648.351 Mid-Atlantic forage species possession limits.

(a) *Mid-Atlantic forage species.* Unless otherwise prohibited in § 648.80, a vessel issued a valid commercial permit in accordance with § 648.4 may fish for, possess, and

land up to 1,700 lb (771.11 kg) of all Mid-Atlantic forage species combined per trip in or from the EEZ portion of the Mid-Atlantic Forage Species Management Unit, as defined in paragraph (b) of this section. A vessel not issued a permit in accordance with § 648.4 that is fishing exclusively in state waters is exempt from the possession limits specified in this section.

(b) *Mid-Atlantic Forage Species Management Unit.* The Mid-Atlantic Forage Species Management Unit is the area of the Atlantic Ocean that is bounded on the southeast by the outer limit of the U.S. EEZ; bounded on the south by 35°15.3' N. lat. (the approximate latitude of Cape Hatteras, NC); bounded on the west and north by the coastline of the United States; and bounded on the northeast by the following points, connected in the order listed by straight lines:

Point	Latitude	Longitude
1	40°59.32' N.	73°39.62' W.
2	40°59.02' N.	73°39.41' W.
3	40°57.05' N.	73°36.78' W.
4	40°57.87' N.	73°32.85' W.
5	40°59.78' N.	73°23.70' W.
6	41°1.57' N.	73°15.00' W.
7	41°3.40' N.	73°6.10' W.
8	41°4.65' N.	73°0.00' W.
9	41°6.67' N.	72°50.00' W.
10	41°8.69' N.	72°40.00' W.
11	41°10.79' N.	72°29.45' W.
12	41°12.22' N.	72°22.25' W.
13	41°13.57' N.	72°15.38' W.
14	41°14.94' N.	72°8.35' W.
15	41°15.52' N.	72°5.41' W.

16	41°17.43' N.	72°1.18' W.
17	41°18.62' N.	71°55.80' W.
18	41°18.27' N.	71°54.47' W.
19	41°10.31' N.	71°46.44' W.
20	41°2.35' N.	71°38.43' W.
21	40°54.37' N.	71°30.45' W.
22	40°46.39' N.	71°22.51' W.
23	40°38.39' N.	71°14.60' W.
24	40°30.39' N.	71°6.72' W.
25	40°22.38' N.	70°58.87' W.
26	40°14.36' N.	70°51.05' W.
27	40°6.33' N.	70°43.27' W.
28	39°58.29' N.	70°35.51' W.
29	39°50.24' N.	70°27.78' W.
30	39°42.18' N.	70°20.09' W.
31	39°34.11' N.	70°12.42' W.
32	39°26.04' N.	70°4.78' W.
33	39°17.96' N.	69°57.18' W.
34	39°9.86' N.	69°49.6' W.
35	39°1.77' N.	69°42.05' W.
36	38°53.66' N.	69°34.53' W.
37	38°45.54' N.	69°27.03' W.
38	38°37.42' N.	69°19.57' W.
39	38°29.29' N.	69°12.13' W.
40	38°21.15' N.	69°4.73' W.
41	38°13.00' N.	68°57.35' W.
42	38°4.84' N.	68°49.99' W.
43*	38°2.21' N.	68°47.62' W.

*Point 43 falls on the U.S. EEZ.

(c) *Transiting*. Any vessel issued a valid permit in accordance with §648.4 may transit the Mid-Atlantic Forage Species Management Unit, as defined in paragraph (b) of this section, with an amount of Mid-Atlantic forage species on board that exceeds the possession limits specified in paragraph (a) of this section to land in a port in a state that is outside of the Mid-Atlantic Forage Species Management Unit, provided that those species were harvested outside of the Mid-Atlantic Forage Species Management Unit and that all gear is stowed and not available for immediate use as defined in § 648.2.

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23. In § 648.352, revise the section heading to read as follows:

§ 648.352 Mid-Atlantic forage species framework measures.

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